

**Remarks:**

Claims 1, 3 to 9, 11 to 19 are pending in the application.

Examiner has cited Aerrabotu et al. U.S. Publication No. 2004/0203573 A1 against claims 12, 13, and 15 to 19. However, U.S. Publication No. 2004/0203573 A1 names Chin et al. as inventors. From the Notice of References Cited it is apparent that Aerrabotu's U.S. Publication No. is 2004/0203572 A1. For the purposes of this response, Applicant assumes, without prejudice, that the Examiner meant to refer to the U.S. Publication No. 2004/0203572 A1.

**Arguments:**

Based on Examiner's comments at point 2 of the Office Action, Applicant notes that the Examiner has considered previous arguments presented by the Applicant. No reasons have been produced regarding non-sufficiency of previous arguments. As new grounds of rejection have been raised, it is understood, without prejudice, that Applicant's previous arguments were sufficient and Applicant's previous arguments have therefore overcome Examiner's previous rejections in full.

Concerning the new grounds of rejection raised solely under 35 U.S.C. 103(a), Applicant notes the Examiners comments at point 3 of the Office Action particularly the requirement that factual inquiries be undertaken with respect to:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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With respect to asserting obviousness, in the recent KSR v. Teleflex Supreme Court Decision No. 04-1350, the Supreme Court emphasized that "it will be necessary ... to look [at] ... the background knowledge possessed by a person having ordinary skill in the art, ..."

The Examiner has cited three patent and patent application references against the pending claims:

<b>Reference</b>	<b>Inventor(s)</b>	<b>Date of First Publication</b>
U.S. 6,690,940 B1	Brown et al.	Feb. 10 2004
U.S. 2004/0203572 A1	Aerrabotu et al.	Oct. 14 2004
U.S. 2004/0032932 A1	Kucmerowski et al.	Feb. 19 2004

The present application was filed on Jan 21, 2004 and claims priority from U.S. Provisional Patent Application 60/441,504 which was filed on Jan 21, 2003.

Applicant respectfully submits that the teachings of Brown, Aerrabotu and Kucmerowski only became available to the public after both the priority date and the filing date of the present application.

In accordance with the requirement to look at the background knowledge possessed by a person having ordinary skill in the art, as re-emphasized by the Supreme Court in KSR v. Teleflex, to resolve the level of ordinary skill in the art as set forth in the John Deere decision, Applicant respectfully submits that the Brown, Aerrabotu and Kucmerowski references were not part of the common general knowledge of a person of ordinary skill in the art as of the date the present application was reduced to practice, for example as of the priority date and/or as of the filing date of the present application.

Therefore, Applicant respectfully submits that the Brown, Aerrabotu and Kucmerowski references are not citable under 35 U.S.C. 103(a) as the subject matter described therein was not available to a person of ordinary skill in the art as of the priority date and/or the filing date of the present application. Citing from MPEP 2126 "The document must be at least minimally available to the public to constitute prior art" last paragraph of left column on page 2100-60 Rev. 5, Aug. 2006.

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Without prejudice, Applicant respectfully traverses Examiner's rejections of claims 1, 3 to 9, 11 to 19 on the grounds that the subject matter described in the Brown, Aerrabotu and Kucmerowski references cited did not form part of the knowledge of a person of ordinary skill in the art as of the date the invention described in the present application was reduced to practice, and could not have been considered or combined to arrive at the claimed invention.

Notwithstanding the above, Examiner has cited Agness and Ikonen against claims 1, 2 to 8, 12, and 14 to 16.

Independent claim 1 is directed to a method performed at a mobile station in attempt to enhance the probability of successful emergency call completion. During each emergency call attempt by the mobile station, the mobile station monitors service requests received from the network. Each non-voice service request from the network is ignored by suppressing the transmission of acknowledgement message otherwise generated by the mobile station in response to such a non-voice service request.

Examiner is of the opinion that Agness discloses a method of enhancing the probability of successful emergency call completion.

Applicant respectfully disagrees. As it is very apparent from the title of the Agness reference; the abstract, paragraph [0001] line 4 therein, and paragraph [0002] line 4 therein; Agness teaches inhibiting call completion. In paragraph [0011] makes it very clear that the solution taught is implemented by "cell phone blocker equipment". At best, Agness teaches restoring a mobile phone to standard functionality for the purpose of placing an emergency call: wherein at paragraphs [0036] and [0074] Agness teaches passing emergency call through by bypassing the call inhibit functionality taught. A person of ordinary skill in the art would understand that in teaching "... calls being provided with a priority connection to the transmission channel (traffic channel)", Agness teaches away from the invention by providing

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priority connectivity from the MCS to the base station antenna transceiver transmitting on the traffic channel. This is also apparent from paragraph [0020] of Agness.

Therefore Agness does not teach method of enhancing the probability of emergency call completion. Agness teaches only restoring typical emergency call completion without enhancing it further.

Claim 1 is directed to a method performed at a mobile station.

Examiner is of the opinion that Agness discloses a method of enhancing the probability of successful emergency call completion on a mobile station.

Applicant respectfully disagrees. Agness teaches away from the invention by teaching call inhibit method steps performed by a server at a cell station communications server location. Paragraph [0073] of Agness reads: "The monitoring and control circuitry of the present invention, being software implemented, is resident in computer memory at the cell base station communications server 33. This software performs logical decision making shown in the logic flow diagram of FIG. 4." The caption of Fig. 4 reads: "...a logic flow diagram for the monitoring and control software resident within a general process computer comprising the cell base station monitor and control computer of FIG. 2a." The caption of Fig. 2 reads: "a circuit block diagram of the circuitry within a cell unit used to implement the present inhibit invention". And, the caption of Fig. 2a reads: "a system block diagram which shows the highway location inhibit circuitry for digital hand-held cell phones". It is apparent from paragraph [0024] that Agness did consider variations, however it is respectfully submitted that the scope of the variations includes only servers associated with the wired portion of the infrastructure of a wireless network.

Therefore Applicant respectfully submits that Agness does not teach a mobile station implemented method of enhancing the probability of successful emergency call completion.

The method of claim 1 is exercised during an emergency call attempt.

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Examiner is of the opinion that Agness teaches a method exercised during an emergency call.

Applicant respectfully disagrees. Agness teaches a monitoring method monitoring a call request prior to call completion, processes call request information prior to call completion, and culminates with either the inhibition of call completion or allowance of a call request to proceed normally towards a connection being made. A person of ordinary skill in the art reading the Agness reference would understand that the monitoring method taught by Agness may culminate in call completion, if at all, without teaching any method steps performed during an emergency call completion attempt.

Applicant respectfully submits that the Examiner has failed to produce teaching of method steps performed during an emergency call attempt.

Claim 1 teaches triggering emergency call completion enhancing functionality on the receipt of non-voice service requests at a mobile station during an emergency call attempt.

Agness teaches away from the invention by triggering voice call inhibition functionality as a precursor to actual call completion at paragraph [0019]: "When a cell communications server processes a request for a call, the MCS intercepts the cell phone control signal header information, and analyses it for cell phone condition, ..." then at paragraph [0022]: "A cell phone call place[d] to or from an on-the-highway location, or with another location in a restricted data base, is rejected and an inhibit message is broadcast before disconnect."

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of non-voice service request processing steps during an emergency call attempt.

Claim 1 teaches ignoring non-voice service requests.

Agness teaches away from the invention at paragraph [0022]: "A cell phone call ... is rejected and an inhibit message is broadcast"

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Applicant respectfully submits that the Examiner has failed to produce prior art teaching of ignoring non-voice service requests.

Claim 1 teaches blocking sending of an acknowledge message generated by the mobile station based on an non-voice service request.

The Examiner is of the opinion that Brown teaches blocking sending of an acknowledgement message generated by the mobile station based on said a non-voice request at column 5 line 65 to column 6 line 3.

Applicant respectfully disagrees. No where in Brown is the word "acknowledge" present. Applicant respectfully submits that Brown does not address handshake messaging aspects of service request processing. And, therefore Brown does not teach the blocking of acknowledge messaging.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of selectively blocking acknowledge message sending based on a non-voice service request.

In respect of independent claim 1, Applicant respectfully submits that the Examiner has failed to provide prior art teachings of each and every claimed step. Therefore it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness in respect of claim 1.

Dependent claims 2 to 8 variously depend directly or indirectly from independent claim 1 and incorporate limitations thereof. Without prejudice and for reasons provided herein above, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness in respect of dependent claims 2 to 8.

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Independent claim 9 is directed to enhancing the probability of a successful emergency callback to a mobile station from an emergency service centre.

Claim 9 includes ignoring all non-voice service requests except a position location service request.

Examiner is of the opinion that Kucmerowski teaches processing of non-voice service requests.

Applicant respectfully disagrees. Kucmerowski does not teach differentiating between voice and non-voice service requests.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching ignoring all non-voice service requests except position location service requests.

Claim 9 teaches blocking sending of an acknowledge message generated by the mobile station based on a non-voice service request.

The Examiner is of the opinion that Brown teaches blocking sending of an acknowledgement message generated by the mobile station based on said a non-voice request at column 5 line 65 to column 6 line 3.

Applicant respectfully disagrees. No where in Brown is the word "acknowledge" present. Applicant respectfully submits that Brown does not address handshake messaging aspects of service request processing. And, therefore Brown does not teach the blocking of acknowledge messaging.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of selectively blocking acknowledge message sending based on a non-voice service request.

In respect of independent claim 9, Applicant respectfully submits that the Examiner has failed to provide prior art teaching of each and every claimed step. Therefore, it is respectfully submitted that the Examiner has failed to establish a prima facie case of obviousness in respect of independent claim 9.

Dependent claims 11 to 14 variously depend directly or indirectly from independent claim 9 and incorporate limitations thereof. Without prejudice and for reasons provided herein above, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness in respect of dependent claims 11 to 14.

Independent claim 15 is directed to a mobile station apparatus configured to enhance the probability of successful emergency call completion to a network and a successful callback from an emergency centre.

The mobile station apparatus of claim 15 includes an emergency service module.

Applicant respectfully submits that Aerrabotu does not teach a mobile station apparatus having an emergency service module. Examiner points to Fig. 1 of Aerrabotu. Fig. 1 of Aerrabotu does not show an emergency service module. Should the Examiner disagree, the Examiner is respectfully invited to specify the reference label number of such an emergency service module. Examiner further points to paragraphs [0010] to [0015] of Aerrabotu for support. Upon inspection of Aerrabotu, it is apparent that only paragraph [0010] lists the components of the cellular telephone taught by Aerrabotu. Applicant respectfully submits that at paragraph [0010] Aerrabotu does not describe an emergency service module.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of a mobile station having an emergency service module.

The emergency service module claimed in claim 15 is configured to communicate with a digital signal processor and a microprocessor.

Examiner points to Fig. 1 of Aerrabotu purportedly for prior art teachings of an emergency service module communicating with a digital signal processor and a microprocessor.



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Applicant respectfully submits that Fig. 1 of Aerrabotu does not show a digital signal processor. Applicant respectfully further submits that none of the blocks shown in Fig. 1 connect to both the microprocessor 106 and a digital signal processor.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of an emergency service module configured to communicate with a digital signal processor and a microprocessor.

The emergency service module claimed in claim 15 is configured to direct the microprocessor to ignore non-voice service requests from the network.

Examiner is of the opinion that steps 206-214 shown in Fig. 2 of Aerrabotu teach an emergency service module directing a microprocessor to ignore non-voice service requests from the network.

Applicant respectfully disagrees. Steps 206 to 214 of Aerrabotu teach away from the invention by teaching determining the service mode of the cellular telephone, determining whether an emergency call is being placed while the cellular telephone operates in a limited service mode, the transmission of an IMEI if an emergency call is being placed, and enabling of the cellular telephone operating in a limited service mode to receive an in-coming call for a predetermined time. None of the steps 206 to 214 related to ignoring non-voice service requests from the network.

Applicant respectfully submits that the Examiner has failed to produce a prior art teaching of an emergency service module configured to direct a microprocessor to ignore non-voice service requests from the network.

As required by the John Deere decision, it is important to look at the scope of the prior art. In the last sentence of paragraph [0002], Aerrabotu describes the problem wherein "... in the limited service mode of operation, the cellular telephone is disallowed to receive any incoming call including a call back from the emergency service center". At paragraph [0009] Aerrabotu

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positively states that the teachings presented therein relate to enabling a cellular telephone to receive a call back from the emergency service center while in the limited service mode.

Applicant respectfully submits that Aerrabotu only teaches restoring cellular telephone functionality ordered by regulatory bodies to be included therein as described at paragraph [0003] of the present application. It is respectfully submitted that the present application addresses further problems encountered by mobile devices compliant with the FCC order docket 94-102, further problems beyond the scope of Aerrabotu.

The mobile station apparatus claimed in claim 15 further includes functionality enabling the ignoring of non-voice service requests other than position location service requests from the network.

Examiner is of the opinion that Ikonen teaches a network sending position location service requests pointing to the abstract and Fig. 2.

Applicant respectfully disagrees. Ikonen only teaches proactive sending of position information from a mobile station without receiving a position location service request. Ikonen does not teach a network sending position location service requests.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of a mobile station functionality including ignoring non-voice service requests other than position location service requests received from the network.

Applicant respectfully submits that the Examiner has failed to produce prior art teaching of each and every element claimed in claim 15.

Therefore, it is respectfully submitted that the Examiner has failed to establish a prima facie of obviousness in respect of independent claim 15.

Dependent claims 16 to 19 variously depend directly or indirectly from independent claim 15 and incorporate limitations thereof. Without prejudice and for reasons provided herein

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**PATENT**

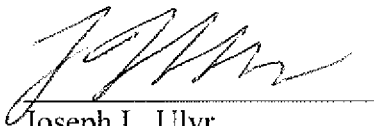
Agent's Docket No. **2173-166**

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above, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness in respect of dependent claims 16 to 19.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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